

SCHEDULE 12

Regulation 16

PART 1

Consequential and transitional provisions relating to lists of practitioners and to local representative committees

Interpretation

1.—(1) In this Schedule—

“the Act” means the National Health Service Act 1977(1);

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(2);

“corresponding list” means a list prepared on or after the relevant date by a Primary Care Trust pursuant to sections 29, 29A, 36, 39, 42, 43 or 43D(3) of the Act, that corresponds to a list of the same type that was maintained pursuant to the same provisions by a Health Authority immediately before the relevant date;

“Health Authority” means a Health Authority established under section 8 of the Act immediately before the relevant date;

“locality” means the locality for which a Health Authority was, or a Primary Care Trust or Strategic Health Authority is, established under the Act; and

“relevant date”, except in Part 4, means 1st October 2002.

(2) In this Part—

“appropriate Primary Care Trust” means the Primary Care Trust on whose corresponding list an existing practitioner is to be included, pursuant to paragraph 2(1);

“existing practitioner” means a person whose name was, immediately before the relevant date, included in an old list;

“old list” means a list maintained by a Health Authority, pursuant to sections 29, 29A, 36, 39, 42, 43 or 43D of the Act before the relevant date; and

“relevant Strategic Health Authority” means the Strategic Health Authority that, on the relevant date, has the same locality as the Health Authority in relation to whose old list, or in relation to the existing practitioner whose name is included in that list, the matter or question to be determined arises.

(1) 1977 c. 49.

(2) 1997 c. 46.

(3) Section 29 was extended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 17; and amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 18, and by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), Schedule 2, paragraph 8. Section 29A was inserted by the 1997 Act, section 32, and amended by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), section 20. Section 36(1) was so numbered by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(1); by the 1988 Act, Schedule 2, paragraph 4; by the 1990 Act, section 24 and by the 1995 Act, Schedule 1, paragraph 25(a). Section 36(3) was inserted by the 1990 Act, section 24(3). Subsections (1A) and (4) to (8) were inserted by the 2001 Act, section 20(4). Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1), extended by the 1988 Act, section 17, and amended by S.I. 1987/2202, article 4; by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 12(3); by the 1995 Act, Schedule 1, paragraph 30; and by the 2001 Act, section 43(2), (3) and (4). Section 43 was amended by the 1980 Act, sections 1 and 21(2) and Schedule 1, paragraph 55; by S.I. 1985/39, article 7(15); by the 1990 Act, Schedule 9, paragraph 18(2); by the 1995 Act, Schedule 1, paragraph 31; by the 1997 Act, section 29(1) and Schedule 2, paragraph 14; and by the 2001 Act, sections 42(2) and 43(5). Section 43D was inserted by the 2001 Act, section 24.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Allocation of practitioners to lists

2.—(1) Subject to paragraph 3, an existing practitioner shall on the relevant date have his name included in the following lists—

- (a) in the case of an existing practitioner whose name was included in an old list maintained pursuant to sections 29 and 29A of the Act (medical lists), the corresponding list prepared pursuant to those sections by any Primary Care Trust in whose locality there resides a person who is on the existing practitioner's list of patients;
- (b) in the case of an existing practitioner whose name was included in an old list maintained pursuant to section 43D of the Act (supplementary lists), the corresponding list prepared under that section by the Primary Care Trust determined in accordance with paragraph 3;
- (c) in the case of an existing practitioner whose name was included in an old list other than an old list prepared pursuant to the sections specified in sub-paragraph (a) or (b), the corresponding list of any Primary Care Trust in whose locality are located premises at or from which the existing practitioner was, immediately before the relevant date, providing services under Part II of the Act.

(2) Subject to paragraph 3, an existing practitioner may, pursuant to sub-paragraph (1), be included in the corresponding list of more than one Primary Care Trust.

Supplementary Lists

3.—(1) Subject to sub-paragraph (2), for the purposes of paragraph 2(1)(b), where an existing practitioner's name is included in an old list prepared under section 43D of the Act (supplementary lists), the Primary Care Trusts whose locality (or part thereof) falls within the locality of the Health Authority which prepared that old list shall request that the existing practitioner specifies in which one of those Trusts' corresponding lists prepared under that section he wishes to be included.

(2) If an existing practitioner—

- (a) specifies, before 17th October 2002, which corresponding list he wishes to be included in, he shall be included in that corresponding list;
- (b) does not specify before that date which corresponding list he wishes to be included in—
 - (i) the Primary Care Trusts specified in sub-paragraph (1) shall, before 24th October 2002, determine among themselves on which one of those lists he is to be included;
 - (ii) if those Primary Care Trusts have not made a determination pursuant to head (i), they shall so inform the relevant Strategic Health Authority by 25th October 2002, and that Strategic Health Authority shall determine, by 31st October 2002, on which one of those lists that existing practitioner is to be included.

(3) The provisions of the National Health Service (General Medical Services Supplementary List) Regulations 2001(4) shall be modified so that any existing practitioner, in respect of whom the process provided for in paragraph 3(2) has not yet been concluded, shall be, from the relevant date until that process is concluded, deemed to be included in the supplementary list of a Primary Care Trust that is nominated for that purpose by the relevant Strategic Health Authority from amongst the Primary Care Trusts within its locality.

(4) The Primary Care Trust, in whose list the name of an existing practitioner is to be included following the procedure provided for in sub-paragraph (2)(b), shall inform the practitioner that he is included in their corresponding list.

(4) [S.I. 2001/3740](#), amended by [S.I. 2002/848](#) and [S.I. 2002/1920](#).

Matters consequential on allocation to lists

4.—(1) Subject to any specific provision in Parts 2, 3, 4 or 5 of this Schedule, where a Health Authority has not, before the relevant date, finally determined or dealt with any—

- (a) application by a person to be included in a list;
- (b) vacancy;
- (c) deferred decision; or
- (d) other matter,

which was the responsibility of that Health Authority pursuant to sections 29, 29A, 29B, 36, 38, 39, 42, 43, 43ZA, 43D, 49F, 49I, 49L, 49M, 49N, 49O, 49P or 49Q of the Act⁽⁵⁾, or pursuant to any regulations made under those provisions, sub-paragraph (2) shall apply.

(2) Where this sub-paragraph applies—

- (a) if the Health Authority that has not finally dealt with or determined that matter is the Health Authority in whose old list the existing practitioner's name is included, the appropriate Primary Care Trust or Trusts shall, on and after the relevant date, be responsible for dealing with or determining that matter; or
- (b) if the Health Authority that has not finally dealt with or determined that matter is not a Health Authority in whose old list the practitioner's name was included, the Primary Care Trust or Trusts who would have been the appropriate Primary Care Trust or Trusts if that practitioner's name had been included in the old list of that Health Authority shall, on and after the relevant date, be responsible for dealing with or determining that matter,

save that where, pursuant to this sub-paragraph, there is more than one Primary Care Trust who is responsible for dealing with or determining the matter, those Primary Care Trusts shall agree amongst themselves which one or more of them should determine or deal with that matter but if those Trusts are unable to so agree, the relevant Strategic Health Authority shall determine which one or more of them shall be responsible for dealing with or determining the matter.

(3) Subject to any specific provision made in Parts 2, 3, 4 or 5 of this Schedule, where, pursuant to sub-paragraph (2), a Primary Care Trust is responsible for dealing with or determining a matter that falls within sub-paragraph (1)(a) to (d), any acts done by the Health Authority in relation to that matter before the due date shall, on and after the relevant date, be deemed to have been done by that Primary Care Trust.

(4) Subject to any specific provision made in Parts 2, 3, 4 or 5 of this Schedule, any matter, decision or determination binding upon a Health Authority that relates to a matter falling within sub-paragraph (1)(a) to (d), shall be equally binding upon the Primary Care Trust or Trusts that, pursuant to sub-paragraph (2), will, on and after the relevant date, be responsible for determining or dealing with that matter.

Local representative committees

5.—(1) Anything done before the relevant date by or in relation to any Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee which was, immediately before the relevant date, recognised by the Health Authority pursuant to section 44 of the Act, shall—

- (a) where that thing has been done in connection with a practitioner, be treated as having been done by or in relation to the corresponding committee recognised by the appropriate Primary Care Trust on whose corresponding list that practitioner's name is included or to which an application is, by virtue of paragraph 4(1)(a), treated as having been made; and

(5) Section 43ZA was added by section 21 of the 2001 Act and sections 49F, 49I, 49L, 49M, 49N, 49O, 49P and 49Q were added by section 25 of that Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) in any other case, be treated as having been done by or in relation to any corresponding committee which is recognised by any Primary Care Trust whose locality is included in the locality of that Health Authority.

(2) A local representative committee recognised by a Health Authority, may exercise any functions given to it under—

- (a) the National Health Service (Service Committees and Tribunals) Regulations 1992(6);
- (b) the National Health Service (General Dental Services) Regulations 1992(7);
- (c) the National Health Service (General Medical Services) Regulations 1992(8);
- (d) the National Health Service (General Ophthalmic Services) Regulations 1986(9);
- (e) the National Health Service (Pharmaceutical Services) Regulations 1992(10);
- (f) the National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997(11); or
- (g) the Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999(12),

in relation to any matter which was referred to it, or initiated by it, before the relevant date, as if it were a committee recognised by a Primary Care Trust, and in determining to whom it should address its decision on any matter, sub-paragraph (3) shall apply.

(3) Where this paragraph applies, the local representative committee shall determine the Primary Care Trust or Trusts to whom its decision should be addressed save that that Trust or those Trusts must be situated within the locality of the Health Authority which recognised it immediately before the relevant date.

(4) In this paragraph—

“corresponding committee” means a Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee (as the case may be); and

“practitioner” means a person providing, or seeking to provide services under Part II of the Act or in accordance with arrangements made under section 28C of the Act.

PART 2

Transitional provisions relating to the National Health Service (Service Committees and Tribunal) Regulations 1992

Interpretation

6. In this Part—

“appropriate Primary Care Trust” has the same meaning as in regulation 2(1) of the 1992 Regulations;

“list” means a dental list, medical list, ophthalmic list, or pharmaceutical list within the meaning of regulation 2(1) of the 1992 Regulations;

“multiple list practitioner” means a practitioner who—

(6) S.I. 1992/664.
(7) S.I. 1992/661.
(8) S.I. 1992/635.
(9) S.I. 1986/975.
(10) S.I. 1992/662.
(11) S.I. 1997/2289.
(12) S.I. 1999/2337.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of two or more relevant Primary Care Trusts in accordance with the provisions of Part 1 of this Schedule, or
- (b) having been included in a particular Health Authority’s list at the relevant time, would, if he had been included in that Health Authority’s list immediately before the relevant date, be included in the list of two or more relevant Primary Care Trusts in accordance with the provisions of Part 1 of this Schedule;

“the 1992 Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992(13);

“relevant Primary Care Trust” means a Primary Care Trust—

- (a) in whose list the practitioner’s name is included on the relevant date pursuant to Part 1 of this Schedule, or
- (b) in whose list the practitioner’s name would have been included pursuant to Part 1 of this Schedule if, on the relevant date, his name had remained on the Health Authority list that his name was included in at the relevant time;

“relevant time” has the same meaning as in regulation 4(8) of the 1992 Regulations;

“single list practitioner” means a practitioner who—

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule, or
- (b) having been included in a particular Health Authority’s list at the relevant time, would, if he had been included in that Health Authority’s list immediately before the relevant date, be included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule.

Cases where no decision has been made by the relevant date as to whether disciplinary action should be taken (regulation 4 of the 1992 Regulations)

7. Where, before the relevant date, a Health Authority—

- (a) has received information that could amount to an allegation that a practitioner has failed to comply with his terms of service;
- (b) has not taken a decision, pursuant to regulation 4(1) of the 1992 Regulations, as to whether it will take no action or take one or both of the courses of action set out in regulation 4(2) of the 1992 Regulations; and
- (c) any time limit specified in regulation 6 of the 1992 Regulations has not expired before the relevant date,

paragraph 8 shall apply.

8. Where this paragraph applies, a Strategic Health Authority that has in its possession the information specified in paragraph 7(a) shall, as soon as is reasonably practicable, provide that information to—

- (a) in the case of a single list practitioner, the relevant Primary Care Trust; or
- (b) in the case of a multiple list practitioner, one of the relevant Primary Care Trusts that the relevant Primary Care Trusts have nominated from amongst themselves,

and that relevant Primary Care Trust shall, on and after the relevant date, be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

(13) S.I. 1992/664. Regulations 3 and 5 were substituted by S.I. 1996/703 and regulation 15 was modified by S.I. 1996/971.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9. Where a Health Authority has, before the relevant date—
- (a) appointed a reference committee under regulation 3(4) of the 1992 Regulations; and
 - (b) referred a matter to that reference committee which has not been finally determined before the relevant date,

that committee shall take no further steps in the matter and paragraph 10 shall apply.

10. Where this paragraph applies—
- (a) in the case of a single list practitioner, the relevant Primary Care Trust; or
 - (b) in the case of a multiple list practitioner, one of the relevant Primary Care Trusts that the relevant Primary Care Trusts have nominated from amongst themselves,

shall be deemed, on and after the relevant date, to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations and shall determine what further action, if any, should be taken in accordance with the 1992 Regulations.

Referrals to investigating discipline committees before the relevant date (regulation 5 of the 1992 Regulations)

11. Where a Health Authority (A) has, before the relevant date, referred a matter to another Health Authority (B) in accordance with regulation 4(2)(a) or (7) of the 1992 Regulations and that matter has not been finally determined by the discipline committee of that Health Authority (B) before the relevant date—

- (a) where the matter relates to a single list practitioner, the relevant Primary Care Trust (A), shall, on and after the relevant date, be deemed to have referred the matter under that regulation; or
- (b) where the matter relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate one Primary Care Trust (A) from amongst themselves who will, on and after the relevant date, be deemed to have referred the matter,

and any acts done by the Health Authority (A) in relation to that matter shall be deemed to have been done by the relevant Primary Care Trust (A) that is deemed to have referred the matter pursuant to sub-paragraph (a) or (b), and that Primary Care Trust (A) shall, on and after the relevant date, be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

12. Paragraph 13 applies where—
- (a) before the relevant date, a Health Authority (B) has had a matter referred to it by another Health Authority (A) pursuant to regulation 5 of the 1992 Regulations; and
 - (b) the investigation by the discipline committee of the Health Authority (B) has not taken place or been completed before the relevant date.

13. Where this paragraph applies—
- (a) the discipline committee appointed by the Health Authority (B), whether or not it is a discipline committee jointly appointed within the meaning of regulation 3(3) of the 1992 Regulations, shall be deemed to be the discipline committee of another Primary Care Trust (B) that is nominated for this purpose by the relevant Primary Care Trust (A) that is deemed to have referred the matter pursuant to paragraph 11;
 - (b) any Primary Care Trust (B) nominated pursuant to sub-paragraph (a) shall be within the locality of the Health Authority (B); and
 - (c) any acts done by Health Authority (B) in relation to the discipline committee before the relevant date shall be deemed, on and after the relevant date, to have been done by the

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Primary Care Trust (B) nominated by the relevant Primary Care Trust (A) pursuant to subparagraph (a).

14. Where a Health Authority (A) has not, before the relevant date, determined what action it will take in relation to a practitioner as a consequence of a report that has been produced by a discipline committee of a Health Authority (B)—

- (a) where the report relates to a single list practitioner, the relevant Primary Care Trust (A) shall determine what action should be taken in accordance with regulation 8 of the 1992 Regulations; or
- (b) where the matter relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate from amongst themselves the Primary Care Trust (A) that will determine what action should be taken in accordance with regulation 8 of the 1992 Regulations,

and any acts done by the Health Authority (A) in relation to that matter before the relevant date shall be deemed to have been done by that relevant Primary Care Trust (A), and that relevant Primary Care Trust (A) shall be deemed to be, on and after the relevant date, the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

15. Where a Health Authority has before the relevant date made a determination as to what action should be taken against, or what measure should be imposed on, a practitioner pursuant to regulation 8 of the 1992 Regulations, but that action has not been taken or completed, or that measure remains in place, immediately before the relevant date—

- (a) where the action or measure relates to a single list practitioner, the relevant Primary Care Trust shall take or compete that action, or be deemed to have imposed that measure, in accordance with regulation 8 of the 1992 Regulations; or
- (b) where the action or measure relates to a multiple list practitioner, a relevant Primary Care Trust that is nominated by the relevant Primary Care Trusts from amongst themselves shall take or complete that action, or be deemed to have imposed that measure, in accordance with regulation 8 of the 1992 Regulations,

and any acts done by the Health Authority in relation to that determination before the relevant date shall be deemed to have been done by that relevant Primary Care Trust, and that relevant Primary Care Trust shall be deemed to be, on and after the relevant date, the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that action or measure.

Appeals to the Secretary of State against determinations of Health Authorities taken before the relevant date (regulation 9 of the 1992 Regulations)

16. Where a practitioner has appealed against a determination of a Health Authority in accordance with regulation 9 of the 1992 Regulations, or he has not appealed before the relevant date but he subsequently does so within the time limit specified in regulation 9(2)—

- (a) where the appeal is made by a single list practitioner, the relevant Primary Care Trust (A) shall be deemed to have made that determination; or
- (b) where the appeal relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate from amongst themselves a relevant Primary Care Trust who shall be deemed to have made that determination,

and the relevant Primary Care Trust that is deemed to have made the determination pursuant to subparagraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority that relate to that determination and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that appeal.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

17. Where, before the relevant date, the Secretary of State has determined an appeal and given notice in writing of his determination to a Health Authority pursuant to regulation 11(5) or 12(4) of the 1992 Regulations, that determination shall be deemed to apply to—

- (a) where the determination is made in relation to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination is made in relation to a multiple list practitioner, a relevant Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and the relevant Primary Care Trust that is deemed to be subject to that determination pursuant to sub-paragraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority that relate to that determination and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that determination.

18. Where, before the relevant date, the Secretary of State has directed a Health Authority (A), pursuant to regulation 11(6) of the 1992 Regulations, to recover an amount from a practitioner, and that amount has not been fully recovered before the relevant date, that direction shall be deemed to apply to—

- (a) where the direction relates to a single list practitioner, the relevant Primary Care Trust (A); or
- (b) where the direction relates to a multiple list practitioner, a relevant Primary Care Trust (A) that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and the relevant Primary Care Trust (A) that is deemed to be subject to that direction pursuant to sub-paragraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority (A) that relate to that direction and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that direction.

19. Where paragraph 18 applies, any debt to be recovered by the relevant Primary Care Trust, to the extent that it is not recovered by deduction from the practitioner's remuneration, shall be, for the purposes of regulation 11(9) of the 1992 Regulations, a debt owed to that relevant Primary Care Trust.

Excessive prescribing matters referred to a professional committee before the relevant date (regulation 15 of the 1992 Regulations)

20. A professional committee appointed by a Health Authority under regulation 15 of the 1992 Regulations may exercise any relevant function under that regulation, in relation to any matter which was referred to it before, and not finally dealt with by, the relevant date, as if it were a committee appointed by a Primary Care Trust determined in accordance with paragraph 21.

21. For the purposes of paragraph 20, the professional committee shall be deemed to be—

- (a) where the question concerning excessive prescribing relates to a single list practitioner, a professional committee appointed by the relevant Primary Care Trust; or
- (b) where the question concerning excessive prescribing relates to a multiple list practitioner, a professional committee appointed by a Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

and any action taken by the Health Authority before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust.

22. Where a professional committee has, before the relevant date, made a determination that an amount should be recovered from a practitioner pursuant to regulation 15(15) of the 1992

Regulations but the Health Authority who appointed that professional committee has not fully recovered that amount from the practitioner before the relevant date—

- (a) where the determination relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination relates to a multiple list practitioner, a relevant Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

shall be deemed to be subject to that determination and shall be entitled to recover the amount outstanding pursuant to regulation 15 of the 1992 Regulations.

23. Where a doctor has appealed under regulation 15(19) of the 1992 Regulations and that appeal has not been finally determined before the relevant date, or he has not appealed by the relevant date but he does so before the expiry of the time limit specified in regulation 15(19) of the 1992 Regulations—

- (a) where the question concerning excessive prescribing relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the question concerning excessive prescribing relates to a multiple list practitioner, the Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

shall, on and after the relevant date, be deemed to have referred the matter to the professional committee that made the determination appealed against and any action taken by the Health Authority before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust.

24. Where the appeal body has, before the relevant date, made a determination that an amount should be recovered from a practitioner pursuant to regulation 15(28) of the 1992 Regulations but a Health Authority has not fully recovered that amount from the practitioner before the relevant date—

- (a) where the determination relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination relates to a multiple list practitioner, a relevant Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

shall be deemed to be subject to that determination and shall be entitled to recover the amount outstanding pursuant to regulation 15 of the 1992 Regulations.

Local representative committees: matters referred before the relevant date

25. A local representative committee recognised by a Health Authority before the relevant date, may exercise any functions given to it under the 1992 Regulations in relation to any matter which was referred to it, or initiated by it, before the relevant date, pursuant to paragraph 5(2) and (3) of Part 1 of this Schedule.

26. Where a Health Authority has notified its dissatisfaction with the determination of a Local Medical Committee to the Secretary of State in accordance with regulation 18 of the 1992 Regulations, but the matter has not been finally determined before the relevant date, the notification will be deemed to have been made by—

- (a) where the matter relates to a single list practitioner, the relevant Primary Care Trust, or
- (b) where the matter relates to a multiple list practitioner, by a Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and any action taken by the Health Authority in respect of that matter before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust who is deemed to have made the notification pursuant to sub-paragraph (a) or (b).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

General matters relating to the transitional arrangements applying to the 1992 Regulations

27. Where in paragraphs 7 to 26, relevant Primary Care Trusts are required to nominate a Primary Care Trust from amongst themselves for a particular purpose—

- (a) the Primary Care Trusts shall nominate a Primary Care Trust that they consider to be the most appropriate in all the circumstances; and
- (b) if no nomination is made because of a disagreement between the Primary Care Trusts, any one or more of those relevant Primary Care Trusts may request that a Strategic Health Authority, within whose locality the relevant Primary Care Trusts fall, nominates a Primary Care Trust for that particular purpose.

28. Where a Strategic Health Authority holds any information that a Primary Care Trust would reasonably require in order to make any determination or nomination, or proceed with any matter pursuant to paragraphs 7 to 26 above, the Strategic Health Authority shall provide the Primary Care Trust with that information as soon as is reasonably practicable.

29. Regulation 2(3) of the 1992 Regulations applies to any reference to the Secretary of State in paragraphs 7 to 26 as it applies in those Regulations.

PART 3

Transitional provisions relating to the Family Health Services Appeal Authority (Primary Care Act) Regulations 2001

Interpretation

30. In this Part—

“FHSAA” means the Family Health Services Appeal Authority constituted under section 49S of the National Health Service Act 1977(14);

“medical list” means a list prepared in accordance with regulations made under section 29(2) (a) of the National Health Service Act 1977(15); and

“the 2001 Regulations” means the Family Health Services Appeal Authority (Primary Care Act) Regulations 2001(16).

Representations made to the FHSAA before the relevant date

31. Paragraph 32 applies where a Health Authority has made representations to the FHSAA under paragraph 3 of Schedule 1 to the 1997 Act before the relevant date but the FHSAA has not finally dealt with the representations in accordance with the 2001 Regulations before that date.

32. Where this paragraph applies, the representations shall be deemed to have been made by—

- (a) the Primary Care Trust in whose medical list the practitioner’s name would have been included pursuant to Part 1 of this Schedule if he had been included in the Health Authority’s list immediately before the relevant date; or
- (b) where under paragraph (a), there is more than one such medical list pursuant to Part 1 of this Schedule, those Primary Care Trusts in whose lists that practitioner’s name would

(14) Section 49S was inserted into the National Health Service Act 1977 (c. 49) by the Health and Social Care Act 2001, section 27(1).

(15) 1977 c. 49.

(16) S.I. 2001/3743.

have been included shall determine amongst themselves which one or more of them shall be deemed to have made representations under the 2001 Regulations, and any acts done by the Health Authority in relation to the representations shall be deemed to have been done by or in relation to that Primary Care Trust, or those Primary Care Trusts (as the case may be).

Directions made by the FHSAA before the relevant date

33. Where, before the relevant date, the FHSAA has made a direction under regulation 13(3)(c) of the 2001 Regulations in accordance with paragraph 4(1)(a) of Schedule 1 to the 1997 Act and—

- (a) that direction was made pursuant to representations made by a Health Authority; and
- (b) that direction has not been terminated pursuant to paragraph 5 of Schedule 1 of the 1997 Act before the relevant date,

that direction shall, subject to paragraph 34, be deemed to be a direction in respect of the medical list of the Primary Care Trust in whose medical list the practitioner’s name would have been included pursuant to Part 1 of this Schedule if the practitioner’s name had, immediately before the relevant date, been included in the medical list of the Health Authority that originally made the representations to the FHSAA.

34. Where, under paragraph 33, there is more than one such medical list pursuant to Part 1 of this Schedule, the FHSAA shall determine which one or more of the Primary Care Trusts shall be deemed to be subject to the FHSAA direction.

35. If the FHSAA has made any direction under paragraph 4(1)(b) or (3) of Schedule 1 to the 1997 Act before the relevant date—

- (a) that direction shall also apply to Primary Care Trusts; and
- (b) if there is any dispute as to whether a direction applies to a particular Primary Care Trust, the FHSAA shall determine whether that direction applies to that Primary Care Trust.

General matters relating to the transitional arrangements applying to the 2001 Regulations

36. If there is any dispute in relation to which Primary Care Trust shall be nominated pursuant to paragraph 32(b), the FHSAA shall resolve that dispute by designating a Primary Care Trust to be the Primary Care Trust that is deemed to have made the representations to the FHSAA.

37. Where a Strategic Health Authority holds any information that would assist a Primary Care Trust in making any determination, representations or nomination under paragraphs 31 to 36, the Strategic Health Authority shall provide the Primary Care Trust with that information.

PART 4

Transitional provisions relating to the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2001

Interpretation

38. In this Part—

“Abolition Regulations” means the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2001(17);

(17) [S.I. 2001/3744](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“appointed date” means 1st October 2002;

“appropriate Primary Care Trust” means any Primary Care Trust that falls within the locality of the Health Authority;

“relevant Primary Care Trust” means a Primary Care Trust in whose list the practitioner’s name is included on the relevant date pursuant to Part 1 of this Schedule by virtue of the fact that the practitioner’s name was included in a particular Health Authority’s list immediately before 1st October 2002; and

“FHSAA”, “local disqualification decision”, “national disqualification decision”, “pharmacist case”, “relevant date”, “suspension pending appeal direction”, “suspension direction” and “the Tribunal” have the same meaning as in regulation 2(1) of the Abolition Regulations.

Local disqualification decisions made before the appointed date

39. Where a person—

- (a) fell within regulation 3 of the Abolition Regulations (local disqualification decisions made before the relevant date);
- (b) was consequently treated as having been removed from a Health Authority’s list in accordance with section 49M(6)(a) of the 1977 Act; and
- (c) is still removed from that list immediately before the appointed date,

that person shall be treated from the appointed date as having been removed from the appropriate Primary Care Trust’s corresponding list or the appropriate Primary Care Trusts’ corresponding lists (as the case may be) pursuant to section 49M(6)(a) of the 1977 Act.

National disqualification decisions made before the appointed date

40. Where a person—

- (a) fell within regulation 4 of the Abolition Regulations (national disqualification decisions made before the relevant date);
- (b) was consequently treated as having had a national disqualification imposed on him by the FHSAA pursuant to section 49N(1) of the 1977 Act; and
- (c) still has that national disqualification imposed on him immediately before the appointed date,

that person shall be treated from the appointed date as having had a national disqualification imposed on him by the FHSAA in relation to all corresponding lists held by Primary Care Trusts pursuant to section 49N(1) of the 1977 Act.

Cases under the 1977 Act where the appeal period had not ended or an appeal period was not concluded by the relevant date

41. Where regulation 5 of the Abolition Regulations applies (cases under the 1977 Act where the appeal period has not ended or an appeal is not concluded by the relevant date)—

- (a) a person, who under paragraph (2) of that regulation—
 - (i) did not file an appeal against a local disqualification decision by the end of the appeal period,
 - (ii) was consequently deemed to have been removed from a Health Authority’s list, and
 - (iii) still is removed from that Health Authority’s list immediately before the appointed date,

shall be treated, from the appointed date, as having been removed from the appropriate Primary Care Trust's corresponding list or the appropriate Primary Care Trusts' corresponding lists (as the case may be);

- (b) a person, who under paragraph (3) of that regulation—
 - (i) did not file an appeal against a national disqualification decision by the end of the appeal period,
 - (ii) was consequently deemed to have had a national disqualification imposed on him, and
 - (iii) still does have a national disqualification imposed on him immediately before the appointed date,shall be treated, from the appointed date, as having had a national disqualification imposed on him in relation to all corresponding lists held by Primary Care Trusts; and
- (c) a person who falls within paragraph (5)(a), (b) or (c) of that regulation, who had a suspension pending appeal direction imposed on him that is still effective on the appointed date, shall be deemed to have a suspension pending appeal direction imposed on him in relation to the corresponding lists of all appropriate Health Authorities.

Other cases under the 1977 Act not disposed of by the relevant date

42. Where, by virtue of regulation 6(1) of the Abolition Regulations, proceedings before the Tribunal have ceased, the relevant Primary Care Trust (or where there is more than one relevant Primary Care Trust, the relevant Primary Care Trust or Trusts determined in accordance with paragraph 47) on and after the appointed date—

- (a) shall be deemed to have made the prior representations to the Tribunal; and
- (b) may, if proceedings pursuant to regulation 6(1)(b) of the Abolition Regulations have not taken place before the appointed date, or where proceedings are on-going immediately before that date, proceed or continue with proceedings against the person under section 49F of the 1977 Act in respect of the matters that formed those prior representations to the Tribunal.

43. Where the Tribunal has given a suspension direction to a person who—

- (a) falls within regulation 6(2) of the Abolition Regulations;
- (b) was consequently treated as having been suspended by a Health Authority under section 49I of the 1977 Act; and
- (c) is still suspended from that Health Authority's list immediately before the appointed date,

that person shall be treated as being suspended from the corresponding lists of all appropriate Primary Care Trusts.

44. Where—

- (a) a Health Authority made an application to the Tribunal under section 46 of the 1977 Act before 1st November 2001; and
- (b) regulation 6(3) of the Abolition Regulations therefore applies,

the relevant Primary Care Trust (or where there is more than one relevant Primary Care Trust, the relevant Primary Care Trust or Trusts determined in accordance with paragraph 47) shall, where such proceedings have not been finally concluded before the appointed date, be deemed to have made that application and shall continue to conduct those proceedings until they are concluded.

45. Where—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) a Health Authority made an application to the Tribunal under section 46 of the 1977 Act in respect of a pharmacist case before the appointed date; and
- (b) that application has not been finally determined before that date,

the relevant Primary Care Trust (or where there is more than one relevant Primary Care Trust, the relevant Primary Care Trust or Trusts determined in accordance with paragraph 47) shall be deemed to have made that application and shall continue to conduct those proceedings until they are concluded.

46. Where, in respect of an application falling within paragraph 44 or 45, the Tribunal has made any direction prior to the appointed date, which is still effective immediately before that date, that direction shall be deemed to apply to the relevant Primary Care Trust (or where there is more than one relevant Primary Care Trust, the relevant Primary Care Trust or Trusts determined in accordance with paragraph 47).

General matters relating to the transitional arrangements applying to the Abolition Regulations

47. Where, by virtue of Part 1 of this Schedule, there is more than one relevant Primary Care Trust, the relevant Primary Care Trusts shall determine amongst themselves which one or more of them shall be the relevant Primary Care Trust or Trusts for the purposes of paragraphs 42, 44 or 45.

48. Where in paragraph 47, the relevant Primary Care Trusts are unable to agree amongst themselves, any one of them may request that a Strategic Health Authority, within whose locality the relevant Primary Care Trusts fall, nominates a Primary Care Trust or Trusts for the purposes of one or more of paragraphs 42, 44 or 45.

49. Where a Strategic Health Authority holds any information that a relevant, appropriate or other Primary Care Trust would reasonably require in order to deal with or determine any matter pursuant to paragraphs 39 to 48, that Strategic Health Authority shall provide those Primary Care Trusts with that information and it shall also provide those Primary Care Trusts with any other assistance that they reasonably request in dealing with those matters or proceedings.

PART 5

Transitional provisions relating to the Family Health Services Appeal Authority (Procedure) Rules 2001

Interpretation

50. In this Part—

“multiple list practitioner” means a practitioner who—

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of two or more relevant Primary Care Trusts pursuant to the provisions of Part 1 of this Schedule, or
- (b) would, if he had been included in the list of the Health Authority that was the respondent Health Authority or party in respect of an appeal or application before the FHSAA under the 2001 Rules before the relevant date, be included in the list of two or more relevant Primary Care Trusts on the relevant date pursuant to Part 1 of this Schedule;

“relevant Primary Care Trust” means a Primary Care Trust—

- (a) in whose list the practitioner’s name is included on the relevant date pursuant to Part 1 of this Schedule, or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) in whose list the practitioner’s name would have been included if, immediately before the relevant date, his name had remained on the Health Authority list that was the respondent Health Authority or party before the relevant date in any appeal or application before the FHSAA under the 2001 Rules;

“the 2001 Rules” means the Family Health Services Appeal Authority (Procedure) Rules 2001(18);

“single list practitioner” means a practitioner who—

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule, or
- (b) would, if he had, immediately before the relevant date, been included in the list of the Health Authority that was the respondent Health Authority or party in respect of an appeal or application before the FHSAA under the 2001 Rules before the relevant date, be included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule; and

“the 1977 Act”, “application”, “contingent removal decision”, “decision”, “directions”, “disputed decision”, “the FHSAA” and “respondent Health Authority or Primary Care Trust” have the same meaning as in rule 2(1) of the 2001 Rules.

Appeals to the FHSAA under Part II of the 2001 Rules

51. Where—

- (a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules after the relevant date; and
- (b) that notice of appeal concerns a disputed decision taken by a respondent Health Authority before the relevant date,

paragraph 52 shall apply.

52. Where—

- (a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules before the relevant date; and
- (b) that appeal concerns a disputed decision taken by a respondent Health Authority before the relevant date; and
- (c) that appeal has not been finally determined before the relevant date,

paragraph 53 shall apply.

53. Where this paragraph applies, a relevant Primary Care Trust or Trusts, determined in accordance with paragraph 54, shall, from the relevant date—

- (a) be deemed to have made the disputed decision;
- (b) be the respondent Primary Care Trust for the purposes of the 2001 Rules; and
- (c) be deemed to have done any acts of the respondent Health Authority before the relevant date, in relation to the Appellant and in relation to his appeal to the FHSAA.

54. The relevant Primary Care Trust that shall be deemed to have made the disputed decision shall be—

- (a) where the disputed decision relates to a single list practitioner, the relevant Primary Care Trust; or

(18) [S.I. 2001/3750](#), relevant amendments to which were made by [S.I. 2002/1921](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) where the disputed decision relates to a multiple list practitioner, all the relevant Primary Care Trusts,

save that nothing in this Part or the 2001 Rules shall prevent a relevant Primary Care Trust from applying to the FHSAA for a direction that it is not to be deemed to be a respondent Primary Care Trust in a particular appeal because it is not appropriate or desirable in the circumstances of that appeal.

55. Nothing in paragraph 54(b) shall prevent the relevant Primary Care Trusts from nominating from amongst themselves one relevant Primary Care Trust to represent all of them in respect of the appeal, and if such a nomination is made, those relevant Primary Care Trusts shall notify the FHSAA of the name of the nominated Primary Care Trust who will be dealing with the appeal on its behalf.

56. Where, before the relevant date, a panel has given leave to a Health Authority to amend any reply or supplementary statement pursuant to rule 13(2) of the 2001 Rules and that amendment has not been effected before the relevant date, the relevant Primary Care Trust or Trusts shall, from the relevant date, be deemed to have been given leave to make the specified amendments on such terms as the panel imposed when it gave leave to the Health Authority.

57. Where, before the relevant date, the FHSAA has made any directions pursuant to rule 8 or rule 13(3) of the 2001 Rules, those directions shall, if they applied to the Health Authority and remain effective immediately before the relevant date, apply to the relevant Primary Care Trust or Trusts from the relevant date.

58. Where a Strategic Health Authority holds any information that would assist a relevant Primary Care Trust in fulfilling its role as a respondent Primary Care Trust in relation to any appeal falling within paragraph 51 or 52, the Strategic Health Authority shall provide that relevant Primary Care Trust with that information as soon as is reasonably practicable.

59. The FHSAA may request information from a Strategic Health Authority concerning which Primary Care Trust is a relevant Primary Care Trust for the purposes of paragraphs 53 and 54 and a Strategic Health Authority shall comply with any such request where it holds or has access to information that would assist the FHSAA.

Applications to the FHSAA under Part III of the 2001 Rules

60. Where the FHSAA—

- (a) has received an application pursuant to Part III of the 2001 Rules before the relevant date; and
- (b) that application has not been finally determined immediately before the relevant date, the parties to that application shall, from the relevant date, be deemed to be the practitioner who was a party immediately before the relevant date, and the relevant Primary Care Trust or Trusts, determined in accordance with paragraph 61.

61. For the purposes of paragraph 60, the relevant Primary Care Trust shall be—

- (a) where the application relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the application relates to a multiple list practitioner, all the relevant Primary Care Trusts,

save that in relation to a relevant Primary Care Trust falling within sub-paragraph (b), nothing in this Part or the 2001 Rules shall prevent a relevant Primary Care Trust from applying to the FHSAA for a direction that it is not to be deemed to be a party because it is not appropriate or desirable in the circumstances of a particular application.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

62. The relevant Primary Care Trust or Trusts specified in paragraph 60 shall be deemed to have done any acts of the Health Authority that was, together with the practitioner, a party to that application immediately before the relevant date.

63. Nothing in paragraph 61(b) shall prevent the relevant Primary Care Trusts from nominating from amongst themselves one relevant Primary Care Trust to represent all of them in respect of the application, and if such a nomination is made, those relevant Primary Care Trusts shall notify the FHSAA of the name of the nominated Primary Care Trust who will be dealing with the application on its behalf.

64. Where, before the relevant date, a panel has given leave to a Health Authority to amend any reply or supplementary statement pursuant to rule 25(2) of the 2001 Rules and that amendment has not been effected before the relevant date, the relevant Primary Care Trust or Trusts shall, from the relevant date, be deemed to have been given leave to make the specified amendments on such terms as the panel imposed when it gave leave to the Health Authority.

65. Where, before the relevant date, the FHSAA has made any directions pursuant to rule 19 or 26 of the 2001 Rules, those directions shall, if they applied to a Health Authority immediately before the relevant date, apply to the relevant Primary Care Trust or Trusts from the relevant date.

66. Where a Strategic Health Authority holds any information that would assist a relevant Primary Care Trust in fulfilling its role as a party in relation to any application falling within paragraph 60, the Strategic Health Authority shall provide that relevant Primary Care Trust with that information as soon as is reasonably practicable.

67. The FHSAA may request information from a Strategic Health Authority concerning which Primary Care Trust is a relevant Primary Care Trust for the purposes of paragraph 60 and a Strategic Health Authority shall comply with any such request where it holds or has access to information that would assist the FHSAA.

General matters relating to cases under Part IV of the 2001 Rules

68. Where the FHSAA has served any document or notice on the respondent Health Authority before the relevant date in relation to any appeal falling within paragraph 52 or any application falling within paragraph 60, it shall be deemed to have served that document or notice on the relevant Primary Care Trust or Trusts.

69. Where a panel has—

- (a) pursuant to rule 32(1), 33, 44(2) or 45(2) of the 2001 Rules given any directions; or
- (b) pursuant to rule 37 of those Rules, varied any directions,

in relation to any appeal falling within paragraph 52 or any application falling within paragraph 60, those directions or varied directions shall, if they apply to a Health Authority and remain effective immediately before the relevant date, apply to the relevant Primary Care Trust or Trusts from the relevant date.

70. Where a panel has, pursuant to rule 42 or 43 of the 2001 Rules, given a decision—

- (a) that decision shall be deemed to apply to the relevant Primary Care Trust or Trusts; and
- (b) the relevant Primary Care Trust or Trusts, shall be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision,

and where any decision pursuant to rule 42 of the 2001 Rules was not announced at the hearing, and was consequently sent to a Health Authority, that decision shall be deemed to have been made in respect of the relevant Primary Care Trust or Trusts on the date that a copy of the document recording it was sent to the Health Authority, pursuant to rule 42(6) of the 2001 Rules.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

71. Paragraph 72 applies where any application for, or a decision of a panel to, review a panel's decision has been made before the relevant date, pursuant to rule 43 of the 2001 Rules, and that review has not been finally determined before the relevant date.

72. Where this paragraph applies, a relevant Primary Care Trust or Trusts, determined in accordance with paragraph 73, shall, from the relevant date—

- (a) be deemed to—
 - (i) have made the application for a review of a panel's decision,
 - (ii) where the application for a review was made by a practitioner, be the other party to the application; or
 - (iii) where the decision to review is of the panel's own motion, be a party, together with the practitioner who the decision to be reviewed concerned,as the case may be; and
- (b) be deemed to have done any acts of the Health Authority before the relevant date, in relation to the proceedings that resulted in the panel's decision.

73. The relevant Primary Care Trust that shall be deemed to have made the application shall be—

- (a) where the application relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the application relates to a multiple list practitioner, all the relevant Primary Care Trusts,

save that, in relation to a relevant Primary Care Trust falling within sub-paragraph (b), nothing in this Part or the 2001 Rules shall prevent such a relevant Primary Care Trust from applying to the FHSAA for a direction that it should not be deemed to have made that application because it is not appropriate or desirable in the circumstances of that application.

74. Nothing in paragraph 73(b) shall prevent the relevant Primary Care Trusts from nominating from amongst themselves one relevant Primary Care Trust to represent all of them in respect of the application, and if such a nomination is made, those relevant Primary Care Trusts shall notify the FHSAA of the name of the nominated Primary Care Trust who will be dealing with the application on its behalf.

75. If a Health Authority has, before the relevant date, agreed with the other party upon the terms of a decision to be made by a panel pursuant to rule 44(1)(b) of the 2001 Rules, the relevant Primary Care Trust or Trusts, determined in accordance with paragraph 76 shall be deemed to have agreed those terms.

76. The relevant Primary Care Trust that shall be deemed to have agreed the terms of the decision shall be—

- (a) where the application relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the application relates to a multiple list practitioner, all the relevant Primary Care Trusts,

save that, in relation to a relevant Primary Care Trust falling within sub-paragraph (b), nothing in this Part or the 2001 Rules shall prevent such a relevant Primary Care Trust from applying to the FHSAA for a direction that it should not be deemed to have agreed the terms of that decision because it is not appropriate or desirable in the circumstances of that decision.

77. Where the FHSAA has taken a decision before the relevant date which, by virtue of rule 46 of the 2001 Rules, it would, at the time it took that decision have been obliged to publish, that obligation shall continue on or after the relevant date if it has not published the decision immediately before the relevant date.

Document Generated: 2023-09-28

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*